

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 742**

April 11, 2023

**SUMMARY OF BILL:** Creates the *Tennessee Pay Equality Act* (Act) which revises current law prohibiting sex-based discrimination and wage discrimination in the workplace.

Expands law to apply all political subdivisions of this state. Clarifies that violations of this Act are Class A misdemeanors, punishable by fine only. Expands certain protections regarding wage-based discrimination in the workplace. Establishes that any employer who violates this Act is additionally liable for compensatory or punitive damages as may be appropriate; however, exempts from such additional punitive liability the governments of the United States, this state, and its political subdivisions. Establishes that, in addition to other damages and relief, an employer who terminates an employee in violation of this Act is subject to injunctive and other appropriate relief, including the rehiring and reinstatement of the employee or the employee's former position with back pay. Requires any action brought to enforce this Act be maintained as a class action.

Requires the Commissioner of the Department of Labor and Workforce (DLWD) to develop guidelines which address wage disparities and requires such guidelines be made available to the Governor, the Speaker of the Senate, and the Speaker of the House of Representatives no later than September 1, 2023.

**FISCAL IMPACT:**

**Increase State Revenue - \$50,000/FY23-24 and Subsequent Years**

Assumptions:

- This legislation expands protections against wage-based discrimination in the workplace and removes a current exemption which prevented certain wage-based and sex-based discrimination from being applied to political subdivisions of the state.
- Additionally, this legislation established that violations of this Act, which currently are and will remain a Class A misdemeanor offense, are now only punishable by fine.
- It is assumed that this legislation clarifies current practice, as it is presumed that such convictions are only punishable by fine, in general.
- Based on information provided by the Administrative Office of the Courts, there have been no Class A misdemeanor convictions in the past five years relating to the statute being revised by the legislation.

- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- This legislation is estimated to result in an increase of 200 wage-based complaints to the DLWD, of which approximately 50 percent, or 100 complaints, will be adjudged as non-compliant.
- Based on information provided by the DLWD, wage-based complaints are currently \$500 per violation.
- There will be a recurring increase in state revenue to the General Fund in FY23-24 of \$50,000 (100 complaints x \$500).
- It is assumed that state and local governments will comply with all provisions of the Act regarding employees; therefore, any expenditures will be not significant.
- Any expenditures and revenue of class action suits will be borne by private parties; any fiscal impact to state or local government is estimated to be not significant.
- The DLWD can develop guidelines which address wage disparities and make such available to the required people utilizing existing resources and personnel.

## **IMPACT TO COMMERCE:**

### **Increase Business Expenditures - \$50,000/FY23-24 and Subsequent Years**

**Other Fiscal Impact – This legislation will result in an increase in business expenditures in FY23-24 and subsequent years relative to employee backpay and class action damages and relief. The extent of such increase cannot be determined with reasonable certainty.**

#### **Assumptions:**

- This legislation is estimated to result in an increase in wage-based complaint, resulting in an increase in civil penalties, for which employers in this state will be liable.
- It is assumed that 100 complaints will be adjudged as non-compliant.
- Wage-based complaints are currently \$500 per violation.
- There will be a recurring increase in business expenditures in FY23-24 of \$50,000 (100 complaints x \$500).
- This legislation will result in an increase in business expenditures in FY23-24 and subsequent years relative to employee backpay and class action damages and relief. The extent of such increase cannot be determined at this time.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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